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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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|-----------------|-------------|----------------------|---------------------|

09/052,673 03/31/98 ANDERSON

R 11232

WMO1/0328

EXAMINER

PAUL J ESATTO, JR.
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

RUPERT, P

ART UNIT

PAPER NUMBER

2634

DATE MAILED:

03/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| | | |
|------------------------------|-----------------|----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/052,673 | ANDERSON, RICHARD E. |
| | Examiner | Art Unit |
| | Paul N. Rupert | 2634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 March 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,6,11 and 12 is/are rejected.
- 7) Claim(s) 3-5 and 7-10 is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on 05 September 2000 is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____ .
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 20) Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 7 March 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/052,673 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, 11 and 12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by David L. Mills, "RFC 1305 Network Time Protocol (Version 3)", March 1992. A method for determining the difference between local and remote clock frequencies and time values, and for adjusting the local clock frequency so that the difference approaches zero is fully disclosed by Mills (pp. 40-44 and Appendix G). RFC 1305 contains specifications for standard-compliant hardware clocks in addition to software implementations (see appendix G and Figs. 10(a) and 10(b)). The rejected claims as written are overly broad and do not distinguish over the prior art. The applicant's intended use of his invention within a digital data decoder does not render his invention patentable over the prior art because it does not result in a structural difference between the claimed invention and the prior art. It would have been obvious to one of ordinary

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skill in the art to utilize the gradual phase adjustment technique taught by Mills in order to synchronize two remote clocks over a network, regardless of the use to which the synchronized clocks are put.

Allowable Subject Matter

4. Claims 3-5, 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the hardware which parses the time reference messages and only interrupts the processor when the difference between the local clock and the reference clock is greater than a threshold condition and then adjusting a clock frequency is not found in the prior art. In NTP, frequency changes to a clock are not made when a step change is necessary to a clock counter value.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "MPEG-2: A Tutorial Introduction to the Systems Layer" Sarginson, P.A. MPEG-2 - What it is and What it isn't, IEE Colloquium on, 1995, pp. 401-413, Yu (US 6028648), Shiromoto et al (US 5917873), Moon (US 5881114), Ryan (US 5828416), Noda et al (US5784119), Dokic (US 5699392).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul N. Rupert whose telephone number is (703) 305-0194. The

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examiner can normally be reached on M-F 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703) 305-4714.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 308-9051 (for formal communications intended for entry)

Or:

(703) 308-6743 (for informal or draft communications, please label
“PROPOSED” OR “DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington VA, Sixth Floor (Receptionist).

PNR
March 23, 2001



STEPHEN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600